

SCHEPER KIM & HARRIS LLP

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VIA E-MAIL AND U.S. MAIL

Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
Hall of Justice
211 West Temple Street
Los Angles, California 90012
rjohnson@lasd.org

Dear Sheriff Villanueva:

I write to follow up our meeting last Tuesday. Thank you for briefing me in advance of your State of the Department Address. I have discussed our meeting, your address, and this letter with the other *Rosas* Monitors, Robert Houston and Jeffrey Schwartz, and this letter reflects their views as well as mine.

At the outset of our meeting, you stated that you needed to apologize because the Sheriff's Department had misled the *Rosas* Monitors regarding use of force incidents, inmate assaults on staff, and inmate assaults on inmates. In particular, you indicated that the Department had underreported gassings, and that a Commander had directed Department personnel in writing not to report gassings. I asked if I could have a copy of the Commander's directive, and you said that you would provide it to me. During the meeting, you also said that a former Assistant Sheriff for Custody Operations had directed Department personnel in writing not to use force to defend themselves. I asked if I could have a copy of the Assistant Sheriff's written communication, and you said that you would also provide that document to me.

Given the nature of the allegations regarding the Assistant Sheriff and the Commander, please arrange to have someone email their directives to me as promptly as possible. In addition, although the chart you presented during your State of the Department Address shows a significant increase in gassings in 2016 and 2017, I would also like to receive any evidence the Department has showing that gassings have been underreported.

With respect to the information provided to the *Rosas* Monitors, it was suggested in the meeting that there had been a "conspiracy" to misled us regarding the extent of the force and

SCHEPER KIM & HARRIS LLP

Sheriff Alex Villanueva

February 4, 2019

Page 2

violence in the jails. As I indicated in the meeting, the Department has been very forthcoming with information about Custody Operations and never refused to provide any information requested by the *Rosas* Monitors, and I do not believe that anyone in the Department has intentionally misled us.¹

I also said that while I thought that the Department's use of force statistics over the last three years were accurate (and verifiable though the CCTVs that are now operational throughout the jail system), I did not have any confidence in the Department's data prior to 2013, and the data from 2013 through 2015 was incomplete. It is my understanding that beginning in 2017, the Department changed the method for gathering data on inmate assaults to ensure that the Department captured all of these incidents in a database. A recent report I received from CCSB indicates that "[n]o true comparison, other than Gassings, can be made with data prior to 2017." The Office of the Inspector General's July 2017 Report also raised concerns about the Department's data.² Without accurate data to serve as a benchmark, it is not possible to draw any reliable conclusions or comparisons regarding the level of force and violence in the jail during your predecessor's tenure. As we discussed, I am available to meet with your transition team (ideally, along with one or both of the other *Rosas* Monitors) to review the Department's data. Please have your team contact me to arrange the meeting.

As I indicated in our meeting, the provisions of the *Rosas* Action Plan were reviewed and approved by the Department before they became part of the Court-ordered settlement of the *Rosas* case, which covers the jails in the Downtown Jail Complex. Thereafter, there was extensive back and forth communications between the Monitors and the Department with respect to the Department's revised use of force policies that were eventually approved by the Monitors and issued by the Department to implement the Action Plan. The Monitors believe that the Action Plan and the revised use of force policies have contributed to the positive changes in the staff culture and the uses of force we noted in our Fourth Report to the Court in November 2018. Nevertheless, if there are unintended adverse consequences impacting the safety of the staff and/or the inmates in the jails as a result of a provision of the Action Plan or a revised policy, the Monitors are certainly willing to discuss specific proposed modifications. Any changes to the Action Plan would have to be reviewed by the Plaintiffs, and ultimately approved by the Court.

You indicated in the meeting that you thought that the problem may not be with the Department's use of force policies, but with the implementation of the policies. Although I am not sure what you meant by this, I want to emphasize that, absent a Court-ordered approval of a modification of the Action Plan, the Monitors expect the Department to continue to work in good

¹ This is consistent with the conclusions of the Office of Inspector General that the "OIG review did not reveal information to suggest [that the Department intentionally misled stakeholders]."

² The Office of Inspector General found that the "same deficiencies" in the Department's statistics identified in by the Citizen's Commission on Jail Violence still existed in 2017.

SCHEPER KIM & HARRIS LLP

Sheriff Alex Villanueva

February 4, 2019

Page 3

faith to achieve compliance with the provisions of the plan for the time periods required by the *Rosas* Settlement Agreement. The Monitors are required under that agreement to "submit to the Parties and the Court periodic reports evaluating Defendant's compliance with the Action Plan." The agreement also provides that "[i]f, after the Panel reports that the Defendant initially reached compliance, the Panel subsequently reports that the Department has fallen out of compliance, Plaintiffs may make a motion to the Court for contempt. . . .The Court may exercise its equitable powers to fashion relief, including ordering compliance and extending the compliance period," or the "Plaintiffs may request the Panel propose a remedial plan. . .for the Court's approval."

Although we did not discuss the Department of Justice case, which is primarily concerned with the treatment of mentally ill inmates in the jails, the Joint Settlement Agreement Regarding the Los Angeles County Jails in that case extends the provisions of the *Rosas* Action Plan to "all jail facilities" in the County. It also provides that "[i]f the County or the Sheriff create or materially revise a policy related to this Agreement after [July 1, 2015]," they are supposed to "provide a copy of the proposed policy to the Monitor and DOJ prior to its implementation." The Monitor and DOJ have 30 days to review the policy; "if there is an objection to the proposed policy" from either the Monitor or DOJ, the "County and Sheriff will have 30 days to address the objection(s)." "[I]f the Monitor and the Parties cannot resolve the objections, either Party may ask the Court to resolve the matter." Accordingly, any changes in the Department's use of force policies are subject to review and approval in both the *Rosas* and DOJ cases.

I look forward to continuing to have the cooperative working relationship that I have had with the Department in both cases. I will, of course, be available to meet with you to discuss any concerns that you may have.

Very truly yours,



Richard E. Drooyan
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cc: Jeffrey Schwartz
Robert Houston
Peter Eliasberg
Eric Balaban
Kyle Jones
Amie Park
Matthew Nickels